

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

GONZALO ALARCON,

Petitioner,

v.

FIDENCIO GUZMAN,

Respondent.

Case No. 2:24-cv-06108-AB (JC)

**ORDER ACCEPTING REPORT AND
RECOMMENDATION OF UNITED
STATES MAGISTRATE JUDGE**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition for Writ of Habeas Corpus (“Petition”), the parties’ submissions in connection with Respondent’s Motion to Dismiss the Petition (“Motion to Dismiss”) and Petitioner’s Motion in Request of Stay and Abeyance (“Motion for Stay”), and all of the records herein, including the May 27, 2025 Report and Recommendation of United States Magistrate Judge (“Report and Recommendation”). The Court has engaged in a *de novo* review of those portions of the Report to which objections have been made.

The Report recommends the dismissal of the Petition because it raises claims that are not cognizable in federal habeas actions. (Dkt. No. 24.) Petitioner’s

1 objections to the Report (Dkt. No. 28) do not merit any change to the Report's
2 findings or recommendations.

3 Petitioner objects that his appellate counsel was ineffective during his
4 resentencing proceeding in state court. (Dkt. No. 28 at 4.) As the Report found,
5 however, this claim is not cognizable on federal habeas review because Petitioner
6 had no constitutional right to counsel in such a proceeding. (Dkt. No. 24 (citing
7 cases).) Petitioner fails to raise any persuasive argument to the contrary.

8 Petitioner objects that this Petition is timely filed and that he should receive a
9 stay of his Petition. (Dkt. No. 28 at 5.) This objection is not responsive to the
10 Report, which did not resolve the Petition on timeliness or exhaustion grounds.
11 Because Petitioner's claims are not cognizable on federal habeas review, the Court
12 need not address alternative grounds for dismissal. (Dkt. No. 24 at 4 n.4.)

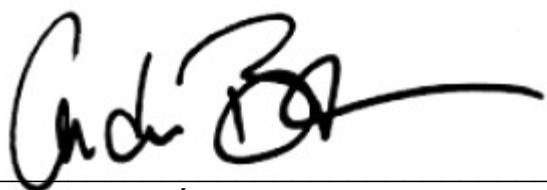
13 The Court approves and accepts the Report and Recommendation.

14 IT IS HEREBY ORDERED that the Motion to Dismiss is granted, the
15 Motion for Stay is denied, and the Petition and this action are dismissed.

16 IT IS FURTHER ORDERED that the Clerk serve copies of this Order, the
17 Report and Recommendation, and the Judgment herein on Petitioner and counsel
18 for Respondent.

19 LET JUDGMENT BE ENTERED ACCORDINGLY.

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21 DATED: July 11, 2025



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24 HON. ANDRÉ BIROTTE, JR.
25 UNITED STATES DISTRICT JUDGE
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